

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LONNIE MARK HOPKINS,

Defendant-Appellant.

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UNPUBLISHED

August 14, 2007

No. 269814

Kent Circuit Court

LC No. 05-007912-FH

Before: Smolenski, P.J., and Fitzgerald and Kelly, JJ.

MEMORANDUM.

Following a bench trial, defendant appeals as of right his conviction of failure to pay child support, MCL 750.165. We affirm.

At trial, the evidence showed that defendant had accrued a child support arrearage in the amount of \$43,861. Defendant testified and admitted that he had failed to pay support as ordered, but contended that he was unable to do so because he had lost several jobs and was simply unable to remain current with his obligation. He contended that he had attempted unsuccessfully to have his support obligation modified.

The trial court rejected defendant's assertion that MCL 750.165 was unconstitutional as a strict liability offense, and found defendant guilty as charged. The trial court sentenced defendant to serve a term of five years' probation, and to pay \$47,879.33 in restitution.

We review questions of statutory interpretation de novo. *People v Davis*, 468 Mich 77, 79; 658 NW2d 800 (2003).

Defendant argues that MCL 750.165 is unconstitutional because it makes failure to pay child support a strict liability offense, and that the absence of an intent requirement deprives him of the right to due process. We disagree.

In *People v Westman*, 262 Mich App 184; 685 NW2d 423 (2004), overruled in part on other grounds in *People v Monaco*, 474 Mich 48; 710 NW2d 46 (2006), another panel of this Court addressed and rejected the same argument made by defendant in this case. The *Westman* Court held:

“That true strict liability crimes are proper under some circumstances is . . . well settled in Michigan.” *People v Quinn*, 440 Mich 178, 188; 487 NW2d 194 (1992). In this case, the Legislature properly enacted MCL 750.165 as a strict liability offense under its authority to enact laws protecting the public welfare. [*People v Adams*, 262 Mich App 89, 98-99; 683 NW2d 729 (2004)]; *People v Nasir*, 255 Mich App 38, 42; 662 NW2d 29 (2003). The state’s police power includes the power to regulate for the social good. *People v Lardie*, 452 Mich 231, 255; 551 NW2d 656 (1996). Laws enacted for the public welfare “do not require a criminal intent because the accused generally is in a position to prevent the harm.” *Id.* at 254; *Adams, supra* at 99. In this case, defendant was in a position to prevent the harm by complying with or seeking modification of the court order directing him to pay child support. *Id.* He failed to do so. We find no violation of defendant’s right to due process. *Id.* at 100. [*Westman, supra* at 191.]

In the instant case, the evidence produced at trial was sufficient to show that defendant failed to comply with his support order, and unsuccessfully sought to have his support obligation modified.<sup>1</sup> Pursuant to *Westman, supra*, defendant’s conviction did not deprive him of due process.

Affirmed.

/s/ Michael R. Smolenski  
/s/ E. Thomas Fitzgerald  
/s/ Kirsten Frank Kelly

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<sup>1</sup> The reason defendant’s attempt was unsuccessful is not on the record before us.